

EDWARD MCLEARY
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Date: Tuesday, December 14, 2004

DEPARTMENT OF ECOLOGY
Po Box 47600
Olympia WA 98504-7600

Mr. David Peeler
Program Manager'
Water Quality Program

Dear Mr. Peeler:

I would like to submit the following comments Relative to the Category 2 and Category 5 listings on Moses Lake.

Most of my comments will be about the method of arriving at your conclusions and the method and steps used in arriving there. My comments will not be about the technical factors in a direct sense but some of my comments are pertinent to this area.

First I would like to comment that your response to the prior comments submitted March 10-04 in no direct way answered my comments and questions. My understanding is that the purpose of this comment request is to give individuals a chance for answers to their unique and individual concerns that pertain to the effect of 303d listing proposals. The Troutlodge enterprise is significantly different than many other businesses, persons and entities as to water quality considerations. We meet a stringent water quality standards and are discharge permitted in 5-year periods. My questions asked are pertinent to our singular situation and to the process and methods used in considering the Category decisions. We feel that you failed the requirement to give any definitive answers and our need for those answers by effectively giving nothing but a very limited general same response to all people. I feel that failure to fulfill the response requirement portion of the listing brings in to question whether the listing of Moses Lake was actually adequate for submittal.

I amazed also that you give us finite and limited times to respond and even your very limited response took from March 15th to Mid October to arrive. People affected by your decision have gone to immense trouble to respond to comments and have been left with very serious doubts as to whether they were in any way considered.

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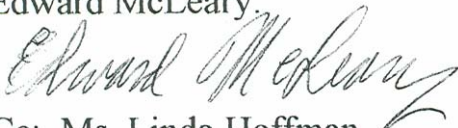
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Because I feel that you should actually answer comments to validate your procedure I am sending you a copy of my 3/10/04 comments so you can send me a more adequate response to my singular pertinent concerns.

It is my feeling also that your failure to address many of the more technical comments in a more direct fashion failed to shed light on why the listing was ever considered to be other than category 2. Some of the technical comments indicated that faulty evidence was included and relevant evidence was not considered. The initial decision by Director Hoffman to reconsider and give extra time for resolution as to Category decision was given by her to consider technical evidence submitted. I do not believe that your approach satisfied that objective nor did it fully address the technical questions asked.

The way this looks at the present time and on the basis of your presentations and the evidence submitted that was not considered this issue should be reviewed and Moses Lake should remain as category 2 for the entire lake.

Edward McLeary



Cc: Ms. Linda Hoffman,
Interim Director, Department of Ecology
Washington Department of Ecology
PO Box 47600
Olumpia, Wa 98504-7600

Enc: 3/10/04 Comment Letter

DATE: 3/10/2004

EDWARD MCLEARY
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Ken Koch
Water Quality Program
Washington State Dept. of Ecology
PO Box 47600
Olympia, WA 98504-7600

RE: COMMENTS TO PROPOSED 303[d] LISTING FOR THE MOSES LAKE WATERSHED
WATER BODY #s 6357 AND 11232

Dear Mr. Koch:

EXAMINATION OF THE EVIDENCE SHOWS THAT THE PROPER LISTING FOR MOSES
LAKE IS: CATEGORY 2 {WATER OF CONCERN}

With respect to the Moses Lake Advisory Committee formed to consider the 303[d] listing for Moses Lake I would like to indicate my feeling of arrogance on the part of DOE personnel in forwarding issues and presentations. Their conclusions were presented as foregone prior to consideration of contrary science, history and evidence. Careful consideration of the history evidence and science shows that Moses Lake cannot be considered for 303[d] listing.

The general attitude of DOE was to use weak inaccurate or boilerplate refutations to move their agenda forward and overcome the local considerations and objections to the Moses Lake 303[d] listing. DOE then expected the Advisory Committee to consider the listing as already fact. The Advisory committee is required to insure that local representation is to be heard, given the facts, and then listened to. We had trouble with all three of these requisites. DOE's approach was to negate and overcome anything that did not agree with their already framed conclusions. The Committee under the law is intended to be our carefully considered local forum to make sure that the DOE is kept on track in considering local conditions, science, stakeholders, economic impact, and relevant other conditions related to the water being considered for 303[d] listing. We feel that much of the science and evidence that DOE presented is not correct and that DOE should not try to go forward with an unjustified Moses Lake TMDL listing. The 303[d] listing was removed for stated reasons in 1998. Nothing had changed in the Lake that was given for a reason by DOE for relisting. Even though it had been removed from listing DOE advised the

Committee it was still on the list and proceeded as if it were. No adequate explanation was given for again placing Moses Lake on the 303d list or for deceiving us about the listing.

High priority was spoken and given for the Moses Lake relisting but DOE personnel would not furnish how the high Priority was determined. This caused a great deal of confusion and feeling of inadequate explanation to the Moses Lake Advisory Committee in considering this relisting. This was particularly true because the enormous and continuing progress that has been made in cleaning up Moses Lake.

With respect to the above The Committee had very real difficulty in getting DOE personnel to listen to our science based analysis, and other presentations or to answer our repeated specific questions. There was also a difficulty in obtaining data needed and the inclusion by DOE of data not qualified to be included in the TMDL assessment. There was an almost constant feeling on the part of many of the members of the Committee that the decision had already been made and that no contrary evidence would be allowed to interfere with DOE's selected pathway and predetermined decision.

With respect to Troutlodge Inc, a business I started in 1945, I was appalled by the already made decision in the offer made by Marcie Mangold of DOE that our Company could pre-accept a 35% cut in our discharge limits under our Fish hatchery discharge permits for 2 hatcheries on Moses Lake tributary Rocky Ford Creek. Ms. Mangold's alternative to acceptance of the 35% cut in our permitted discharges was that our discharge would likely be cut by 100%. Without panoply of reason and evidence this appeared by us to be an outright threat. Because of the integrated nature of our hatcheries and operations either of these options would represent the end of this business with severe consequences to our U. S., local, and worldwide customers. A particularly bitter part of this is that DOE recognized that such a cut would have virtually no effect in achieving their assumed objective on Moses Lake.

Moses Lake has been the subject of an intensive and comprehensive cleanup effort of over 20 years. The Moses Lake Clean Water effort has been one of the most successful in the State of Washington. This success story, our committee feels, has made any 303d TMDL listing unnecessary. Local people doing the work and coordinating the other participants achieved this significant progress. How could Moses Lake have a high priority for listing when the cleanup has been such a great success? This local continuing effort has produced proven results and will continue to improve the lake condition. The successful results of this clean water effort are why Moses Lake does not now qualify for relisting.

My assessment of this DOE supported 303d category 5 listing is that it was predicated on unsupported statements, inclusions of estimates, selected data, conjecture, failure to recognize

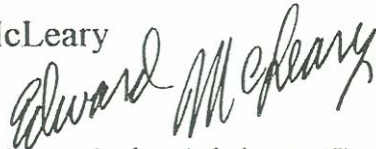
progress made in cleanup, and mistaken priority. Committee presented evidence proves that Moses Lake does not qualify for category 5 TMDL listing.

The arbitrary impasse and failure of DOE personnel to listen and actually consider Committee evidence was finally brought to the attention of DOE Director Linda Hoffman on January 12th in Olympia WA. At this meeting the Committee was allowed to present water data evidence that persuaded the Director indicate that the Lake could be considered for Category 2 listing on the basis of this and other considerations to be presented by March 15th of 2004. Our committee is most sincerely grateful to Director Hoffman for restoring the hearing and consideration of the acting personnel.

Having spent the last year heavily involved personally, and as an acting Member of the Moses Lake Committee considering and reconsidering this issue on the basis of evidence my conclusion is:

THE ONLY SUPPORTABLE LISTING FOR MOSES LAKE IS: CATEGORY 2 [WATER OF CONCERN]

Edward McLeary

A handwritten signature in dark ink, appearing to read "Edward McLeary", written over the printed name.

Member Moses Lake Advisory Committee
Chairman, Board of Directors
Troutlodge Incorporated.

Cc: Director DOE
Ms. Linda Hoffman, Director
Washington State Dept of Ecology
PO Box 47600
Olympia WA. 98504-7600